

**NATIONAL MARINE FISHERIES SERVICE INSTRUCTION 30-121-03**  
**MARCH 1993**

## *Administration and Operations Agreements with the National Ocean Service*

***MOU B/W AA FOR FISHERIES AND AA FOR OCEAN SERVICES AND COASTAL  
ZONE MANAGEMENT CONCERNING ENFORCEMENT WITHIN  
NATIONAL MARINE SANCTUARIES***

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Signed \_\_\_\_\_  
 [Approving Authority name] Date \_\_\_\_\_  
 [Approving Authority title]

MEMORANDUM OF UNDERSTANDING

between

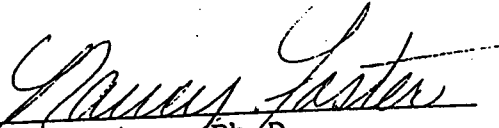
ASSISTANT ADMINISTRATOR FOR FISHERIES

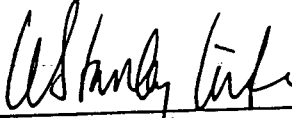
and

ASSISTANT ADMINISTRATOR FOR OCEAN SERVICES AND  
COASTAL ZONE MANAGEMENT

CONCERNING ENFORCEMENT WITHIN NATIONAL MARINE SANCTUARIES

MARCH 1993

  
Nancy Foster, Ph.D.  
Acting Assistant Administrator  
for Fisheries

  
W. Stanley Wilson  
Assistant Administrator  
for Ocean Services and  
Coastal Zone Management

## INTRODUCTION

The Memorandum of Understanding (MOU) between the Assistant Administrator for Fisheries and the Assistant Administrator for Ocean Services and Coastal Zone Management concerning the National Marine Sanctuary Program, dated January 1992, noted the important role the National Marine Fisheries Service (NMFS) and the National Ocean Service (NOS) play in the conservation of the Nation's living marine resources. The MOU set forth a process by which NMFS and NOS intend to collaborate in achieving the goals and objectives of Title III of the Marine Protection, Research and Sanctuaries Act (MPRSA), the Magnuson Fishery Conservation and Management Act (MFCMA), the Endangered Species Act (ESA), and the Fish and Wildlife Coordination Act (FWCA).

This MOU is intended to supplement the MOU of January 1992 between NMFS and NOS by providing a mechanism to develop an enforcement program within the national marine sanctuaries.

The Office of Ocean and Coastal Resource Management (OCRM) has responsibility to manage the National Marine Sanctuary Program. OCRM's management goals for marine sanctuaries include resource protection, public awareness, and understanding and wise use of the marine environment. OCRM also supports, promotes and coordinates scientific research within the sanctuaries and, consistent with protection of the resources, promotes multiple use of these marine areas.

The Office of Enforcement has the responsibility to develop and carry out programs, policies and procedures to enforce all statutes and regulations within NOAA's jurisdiction, including the MPRSA, MFCMA, MMPA, ESA and the Lacey Act.

This MOU has the following goals:

1. To provide a mechanism to address the special enforcement needs of sanctuaries, while ensuring the consistent enforcement of all NOAA statutes;
2. To contribute to the attainment of NOAA's strategic goals and objectives;
3. To achieve greater economy by eliminating duplication of effort in the oversight and administration of NOAA enforcement efforts;
4. To enhance the availability and effective use of enforcement resources necessary to ensure adequate compliance with NOAA regulations; and
5. To provide a mechanism whereby OCRM and the Office of Enforcement can systematically and routinely develop, review and revise, if necessary, the enforcement programs for all marine sanctuaries.

IN CONSIDERATION OF THESE GOALS, THE ASSISTANT ADMINISTRATOR FOR FISHERIES AND THE ASSISTANT ADMINISTRATOR FOR OCEAN SERVICES AND COASTAL ZONE MANAGEMENT AGREE TO THE FOLLOWING:

1. The Office of Enforcement will prepare, in cooperation with OCRM, and for OCRM approval, enforcement plans for national marine sanctuaries and any necessary revisions to such plans. The enforcement plans, which will be revised as necessary, may include, but are not necessarily limited to, the following:
  - i) enforcement/compliance priorities and goals for national marine sanctuaries, corresponding to the goals and objectives of relevant sanctuary management plans;
  - ii) an enforcement strategy for national marine sanctuaries to achieve the specified goals according to the priorities;
  - iii) an estimate of the enforcement assets (personnel, equipment, etc.) necessary to effect the enforcement strategy and achieve compliance goals within national marine sanctuaries; and
  - iv) an estimate of the cost to implement and effect the enforcement plans for national marine sanctuaries.
2. The Office of Enforcement will be responsible for the coordination of all enforcement operations within national marine sanctuaries and, with respect to enforcement of the MPRSA, will closely coordinate with the appropriate Sanctuary Manager, in accordance with departmental orders, applicable statutes, interagency or intergovernmental

agreements, sanctuary management plans and enforcement plans specified in paragraph 1) above, including the following:

- a) deputization of all non-NOAA enforcement personnel (i.e., other Federal, State, local or tribal enforcement officials) enforcing NOAA statutes within national marine sanctuaries. No non-NOAA personnel will be deputized to enforce the MPRSA within national marine sanctuaries without the concurrence of NOS;
- b) specification of training requirements for enforcement personnel empowered to enforce NOAA statutes within national marine sanctuaries. NOS may conduct specialized training or site specific training for all personnel assigned to national marine sanctuaries and empowered to enforce the MPRSA;
- c) coordination and/or conduct of training for all enforcement personnel empowered to enforce NOAA statutes within national marine sanctuaries;
- d) coordination with the appropriate Sanctuary Manager for the enforcement of MPRSA and regulations promulgated thereunder;
- e) coordination of all enforcement activities within national marine sanctuaries relative to NOAA statutes;

- f) coordination with other Federal, State or local agencies for the enforcement of non-NOAA statutes within national marine sanctuaries;
  - g) preparation of all investigative case documentation materials (the case package), including Enforcement Action Reports, Offense Investigative Reports, affidavits, and evidentiary material, and submission of the case package to the NOAA Office of General Counsel or Assistant United States Attorney. A summary of each case package will be routed throughout the appropriate Sanctuary Manager for information and comment. The decision to prosecute any alleged violation of regulations promulgated under the MPRSA rests with NOS and the Office of General Counsel; and
  - h) providing assistance to and coordination with the NOAA Office of General Counsel and/or Assistant United States Attorney, in preparation for civil or criminal prosecutions relative to NOAA statutes.
- 3) As agreed between the Office of Enforcement and OCRM, the Office of Enforcement will assign to each national marine sanctuary a Special Agent (Sanctuary Agent) to conduct and coordinate enforcement activities. The Sanctuary Agent and Sanctuary Manager will coordinate closely to ensure enforcement operations are in accordance with the appropriate sanctuary management and enforcement plans. To facilitate coordination between the Office of

Enforcement and OCRM, individual Sanctuary Agents and Sanctuary Managers will be located in the same facilities.

- 4) All NOAA enforcement operations within national marine sanctuaries will be coordinated with the Sanctuary Agent.
- 5) In the event that the Sanctuary Agent or enforcement supervisor delegated the authority to act in the Sanctuary Agent's absence is unavailable for purposes of responding to an exigent event that the Sanctuary Manager determines will cause, or threatens to cause, significant destruction, loss or injury to sanctuary resources, the Sanctuary Manager may direct sanctuary enforcement personnel in responding to such event.
- 6) The Office of Enforcement will make available to the Chief, Sanctuaries and Reserves Division, a Special Agent to provide the following:
  - a) recommendations on matters pertaining to enforcement issues that affect the National Marine Sanctuary Program;
  - b) liaison between the Office of Enforcement and OCRM;
  - c) assistance in developing enforcement operating procedures and enforcement plans that govern enforcement activities within national marine sanctuaries;



- d) other assistance deemed necessary by the Director, Office of Enforcement and the Director, OCRM.
- 7) The Office of Enforcement, in cooperation with OCRM, will determine appropriate additions to the list of authorized uniform items for wear by personnel engaged in enforcement of NOAA statutes within national marine sanctuaries.
- 8) This MOU will be carried out on a non-reimbursable basis through the end of FY 1993.